

1 UNITED STATES DISTRICT COURT  
2 NORTHERN DISTRICT OF OHIO  
3 WESTERN DIVISION

4 UNITED STATES OF AMERICA, Docket No. 3:12CR431

5 Plaintiffs, Toledo, Ohio

6 v. August 26, 2014

7 TAURUS DEVAULT, Sentencing

8 Defendants.

9 -----  
10 TRANSCRIPT OF SENTENCING HEARING  
11 BEFORE THE HONORABLE JAMES G. CARR  
12 UNITED STATES DISTRICT JUDGE

13 APPEARANCES:

14 For the Plaintiffs: Daniel Hurley  
15 Alissa Sterling  
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20 For the Defendant:  
21 Adrian P. Cimerman  
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25 Court Reporter: Angela D. Nixon, RMR, CRR  
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Proceedings recorded by mechanical stenography, transcript  
produced by notereading.

1           COURTROOM DEPUTY: Case 3:12CR431, United States  
2 of America versus Taurus Devault. Matter called for  
3 sentencing.

4           THE COURT: The record should show that  
5 government's represented by assistant United States  
6 Attorney Dan Hurley and assistant AUSA Alissa Sterling.  
7 Defendant's present in court with his attorney, Mr. Adrian  
8 Cimerman. With you, Mr. Hurley, at the table also?

9           MR. HURLEY: We have Detective Pete Swartz from  
10 the Toledo Police Department.

11          THE COURT: Counsel, have you each read - have  
12 you each received and reviewed the presentence report? If  
13 so, do you have any objections? If not, are you prepared  
14 to proceed with sentencing?

15          MR. HURLEY: We did receive it, Your Honor. The  
16 only objection we have that's outstanding is at the time  
17 the report was prepared, Mr. Devault, through his prior  
18 counsel, had not yet submitted a letter that we contend is  
19 fabricated, so the report does not recommend an enhancement  
20 for obstruction of justice under the guidelines, and when  
21 that issue arose, we did note on the record that we were  
22 intending to seek those additional two points.

23          THE COURT: Okay. Mr. Cimerman, have you  
24 received and reviewed the presentence report?

25          MR. CIMERMAN: I have, Judge.

1 THE COURT: Do you have any objections?

2 MR. CIMERMAN: No, Your Honor.

3 THE COURT: Are you prepared to proceed with  
4 sentencing?

5 MR. CIMERMAN: Yes.

6 THE COURT: Okay. Mr. Devault, did you read the  
7 presentence report?

8 THE DEFENDANT: Yes, I just read it.

9 THE COURT: Is it your representation you've not  
10 seen it before this morning?

11 THE DEFENDANT: My first time seeing it was  
12 yesterday.

13 THE COURT: I want the defendant placed under  
14 oath, please.

15 TAURUS DEVAULT,  
16 was herein, called as if upon examination, was first duly  
17 sworn, as hereinafter certified, and said as follows:

18 THE DEFENDANT: Yes.

19 THE COURT: Mr. Cimerman, what is your  
20 understanding as to when the defendant first reviewed the  
21 presentence report?

22 MR. CIMERMAN: Your Honor, I first met with  
23 Mr. Devault on February 12th of this year. It's my  
24 recollection that the report was reviewed with him on that  
25 date as well as February 22nd of this year.

1           THE COURT: Have you had occasion to discuss with  
2 any prior counsel review the report with him?

3           MR. CIMERMAN: Certainly based upon Mr. Ivy's  
4 sentencing memorandum, it's my belief that he reviewed the  
5 report in preparation of that memorandum.

6           THE COURT: Mr. Devault, does that cause you to  
7 change your testimony you just gave a moment ago?

8           THE DEFENDANT: No.

9           THE COURT: In other words, Mr. Cimerman is  
10 lying? When did you first see or have the report presented  
11 to you?

12          THE DEFENDANT: Yesterday. They went over the  
13 presentence, like told me about it in my points, but  
14 yesterday was my first time ever seeing it.

15          THE COURT: Okay. You have reviewed and you're  
16 familiar with the points and the assessment and the  
17 guideline range; is that correct?

18          THE DEFENDANT: A little bit, Your Honor. I'm  
19 still confused.

20          THE COURT: I'm going to proceed with sentencing,  
21 thereafter I'm going to hold a further evidentiary hearing  
22 to determine the truthfulness of your statements. If I  
23 determine that, in all likelihood, there's reasonable cause  
24 to believe that you're not truthful, I'm going to refer the  
25 matter to United States Attorney for possible further

1 indictment and prosecution, do you understand me? You've  
2 had three lawyers, correct?

3 THE DEFENDANT: Yes.

4 THE COURT: And at least two of those lawyers  
5 have represented you during the process after you pled  
6 guilty; is that correct? Mr. Cimerman, do you recall the  
7 earlier occasions whether or not you had shown the  
8 presentence report or whether he had an opportunity to read  
9 it?

10 MR. CIMERMAN: I believe so, Judge, yes.

11 THE COURT: Pardon me?

12 MR. CIMERMAN: I believe, yes.

13 THE COURT: Okay. Would that be your custom and  
14 practice in such matters as this is to provide a copy to  
15 the defendant so that he could read it and review it?

16 MR. CIMERMAN: Yes.

17 THE COURT: To the best of your recollection and  
18 knowledge, have you ever varied in that custom and practice  
19 in the course of representing a defendant in federal court?

20 MR. CIMERMAN: No, Your Honor.

21 THE COURT: How long have you practiced law?

22 MR. CIMERMAN: I believe it's about 35 years now.

23 THE COURT: And your practice principally,  
24 according to my understanding, has been in the area of  
25 criminal defense?

1 MR. CIMERMAN: Almost 100 percent.

2 THE COURT: Okay. And in this court and other  
3 courts in this area?

4 MR. CIMERMAN: Correct.

5 THE COURT: Okay. Record should show, where is  
6 reflected, that I have reviewed two reports from Court  
7 Diagnostic and Treatment Center and find no reason  
8 contained in either of those reports not to proceed further  
9 with this sentencing.

10 Let's turn now to the issue of obstruction of  
11 justice. Mr. Hurley, on behalf of the government?

12 MR. HURLEY: Your Honor, we would call Detective  
13 Swartz --

14 THE COURT: Okay.

15 MR. HURLEY: -- and put on a brief evidentiary  
16 record.

17 THE COURT: Pardon me?

18 MR. HURLEY: We would like to make a brief  
19 evidentiary record with respect to the obstruction issue,  
20 Your Honor.

21 THE COURT: Okay.

22 PETER SWARTZ,  
23 was herein, called as if upon examination, was first duly  
24 sworn, as hereinafter certified, and said as follows:

25 DETECTIVE SWARTZ: Good morning, Your Honor.

1           THE COURT: Good morning. You would you tell me  
2 your name, please?

3 A. Defective Peter Swartz.

4           THE COURT: How do you spell your last name?

5 A. S-W-A-R-T-Z.

6           THE COURT: And that's with the Toledo Police  
7 Department?

8 A. Child Exploitation Task Force of the FBI.

9           THE COURT: How long have you been --

10 A. It will be 22 years in October.

11           THE COURT: Any prior law enforcement experience?

12 A. No, sir.

13           THE COURT: And when did you obtain the rank of  
14 detective?

15 A. It was roughly '92, I think '92.

16           THE COURT: Okay. And your current duties, or  
17 the duties at the time of your involvement in this case,  
18 were to do what?

19 A. My full-time duties as part of a task force  
20 officer are to investigate domestic minor child sex  
21 trafficking cases.

22           THE COURT: Mr. Hurley.

23           MR. HURLEY: Your Honor, we had previously  
24 provided Government's Exhibits 1, 2 and 3 to Mr. Cimerman  
25 last time. For the record, Government Exhibit 1 is a copy

1 of the letter that was submitted by Mr. Eidy on behalf of  
2 Mr. Devault when we first came for sentencing in this case.  
3 Mr. Eidy represented to The Court that he had received that  
4 letter from Mr. Devault.

5 DIRECT EXAMINATION

6 BY MR. HURLEY:

7 Q. Detective Swartz, when that letter first came up,  
8 did you take any steps to explore the veracity or  
9 truthfulness of that letter?

10 A. Yes, because of the allegations that the letter  
11 wasn't truthful, I met with several different people,  
12 including Mrs. Hill.

13 Q. When you say Mrs. Hill, who's Mrs. Hill?

14 A. Duane Hill's mother.

15 Q. Why did you meet with her?

16 A. Prior to that, we had an opportunity to listen to  
17 some phone calls made by Duane Hill from jail to his  
18 mother. His mother, through Mr. Hill's attorney, Paul  
19 Geller, heard about a letter. And Mrs. Hill, Duane's  
20 mother, asked Hill, or Duane, whether he had written any  
21 letters in support of taking full responsibility for the  
22 crimes that he's convicted of. And during that  
23 conversation, he said he didn't write any such letter. The  
24 only letter he did write was to Judge Carr for his  
25 sentencing.



1 Q. So Mr. Hill was talking to his mother on the  
2 phone, and they didn't know anyone was listening?

3 A. That's correct.

4 Q. And he told his mother he did not write any such  
5 letter on behalf of Mr. Devault?

6 A. Yes.

7 Q. Did you then interview Mr. Hill himself in the  
8 presence of his attorney, Mr. Geller?

9 A. Yes, we talked with Mr. Hill and showed Mr. Hill  
10 the copy of the letter, asked him to read it. He  
11 completely denied writing the letter, nor signing it and  
12 had no knowledge of letter itself.

13 MR. HURLEY: Your Honor, for the record,  
14 Government's Exhibit 2 is a letter that Mr. Hill sent to  
15 me, care of the U.S. Attorney's Office, in which he is  
16 asking for an opportunity to provide information to the  
17 government in exchange for a potential sentence reduction.  
18 It was received by the U.S. Attorney's Office on  
19 January 8th of this year.

20 And then government's Exhibit 3 is Consent to  
21 Order of Referral to the Magistrate Judge for purposes of  
22 receiving defendant's plea of guilty. That is R39 in The  
23 Court file. And we offer these Government's Exhibits, 2  
24 and 3 as signature exemplars. Mr. Hill wrote this letter.  
25 Mr. Hill signed the consent to have this plea taken by the

1 magistrate judge. And so these can be compared to the  
2 signature of Duane Hill that is on Government's Exhibit 1,  
3 the letter that Mr. Devault provided Mr. Eidy?

4 THE COURT: Okay. It will be admitted.

5 BY MR. HURLEY:

6 Q. With respect to the allegation that Mr. Hill  
7 allegedly claims in this letter, Devault had nothing to do  
8 with this. Do we have information with respect to the  
9 rental of hotel rooms by Mr. Devault relative to the  
10 offense that was prosecuted here?

11 A. During the time frame of the investigation,  
12 roughly from January, I believe 2012, through August,  
13 Mr. Devault rented roughly 15 hotel rooms that we suspect  
14 were used for purposes of prostitution.

15 Q. And that's with respect to just the one hotel,  
16 that's the Motel 6?

17 A. That is correct.

18 Q. And the Motel 6, that's the same hotel where your  
19 sting operation uncovered the minor victim here; is that  
20 right?

21 A. Yes.

22 Q. When you say 15 rooms, that was in a period  
23 beginning January 1st, motel check its record, and that's  
24 through mid to late July; is that right?

25 A. That's correct.

1 THE COURT: Of what year?

2 MR. HURLEY: Of 2012, Your Honor, the year that  
3 this offense took place.

4 BY MR. HURLEY:

5 Q. The minor victim here was posted on backpage,  
6 basically being offered up for sexual services; is that  
7 right?

8 A. Yes.

9 Q. And those postings were late July, and then early  
10 August of 2012; is that right?

11 A. That's correct.

12 Q. Are there additional motel room rentals at the  
13 Motel 6 in the name of Taurus Devault during the period  
14 this victims was actually posted on backpage for sexual  
15 purposes?

16 A. Yes. Actually the week prior to the sting that  
17 we conducted, I believe it was August 8th, he had rented  
18 many rooms at the Motel 6 for almost a week straight.

19 Q. So there was 15 in the general six or seven month  
20 span, and then there was almost nightly room rentals in the  
21 name of Taurus Devault during the period the minor victim  
22 was posted?

23 A. Yes, I believe five days in a row.

24 Q. So there are 21 rentals total by Mr. Devault?

25 A. I believe that's correct.

1 Q. Mr. Devault's a resident of the Toledo area?

2 A. Yes, he is.

3 Q. Were these hotel rooms in Toledo?

4 A. Yes.

5 Q. Are there any phone records that would suggest a  
6 connection between Mr. Devault and the minor victim in this  
7 case?

8 A. There are phone records where backpage ads,  
9 there's numerous items listed on his ads. There are phone  
10 numbers on one certain ad. There are two different phone  
11 numbers where Mr. Devault, his phone had contact with the  
12 phone used by the minor and the -- another unknown victim  
13 that we have yet to identify. Dozens of times there's  
14 calls back and forth between those two numbers.

15 Q. So Mr. Devault's phone is calling the phone that  
16 was used by the victim in the prostitution dozens and  
17 dozens of times?

18 A. That's correct.

19 Q. And that's in the period leading up to the sting  
20 operation here?

21 A. Yes.

22 Q. What is So Thirsty Boys?

23 A. So Thirsty Boys is actually, according to  
24 Mr. Devault, he is lead chief executive officer of So  
25 Thirsty Boys. It's actually an e-mail that they use. A

1 group of his friends apparently, according to his testimony  
2 or his proffer, that for use on social networking and  
3 things of that nature.

4 Q. So it's something Devault is in charge of, this  
5 group.

6 A. According to his statements, yes.

7 Q. Was the name So Thirsty Boys, does that appear in  
8 any postings of the minor victim of this case?

9 A. Yes.

10 Q. And in what capacity?

11 A. The SoThirstyBoys.com was utilized to post the  
12 backpage ad.

13 Q. What do you mean it was used to post?

14 A. When you post an ad on backpage, there's certain  
15 information that you have to have, obviously an e-mail  
16 address to send to backpage to post the ad. There's often  
17 pictures, phone numbers, there's typically the saying of  
18 what's being offered, who's being offered, the age of the  
19 person being offered, and IP addresses where the ads come  
20 back to, things of that nature.

21 Q. But the So Thirsty Boys e-mail address, that's  
22 essentially used to identify whoever's making this ad or  
23 paying for it?

24 A. That's correct.

25 Q. That's their contact with backpage?

1 A. Yes.

2 Q. And the e-mail address was So Thirsty Boys at  
3 Yahoo.com?

4 A. Yes, it was.

5 Q. Has Duane Hill ever acknowledged having anything  
6 to do with So Thirsty Boys?

7 A. He -- I don't think he was a part of it, never  
8 acknowledged being a part of it.

9 Q. So Thirsty Boys is Devault thing?

10 A. Yes.

11 Q. May I have a moment, Your Honor?

12 THE COURT: Of course.

13 MR. HURLEY: That's all we have at this point,  
14 Your Honor.

15 THE COURT: And can I see the exhibits?

16 MR. HURLEY: Certainly, Your Honor.

17 THE COURT: Mr. Cimerman, you may cross examine.

18 MR. CIMERMAN: Just briefly, sir.

19 CROSS EXAMINATION

20 BY MR. CIMERMAN:

21 Q. The Government's Exhibit Number 1, the letter  
22 apparently authored by Duane Hill, that carries a notary  
23 public stamp on it; correct?

24 A. Yes, sir.

25 Q. And according to that letter, the notary appears

1 to be a Carl Shambly?

2 A. I'm not sure of the last name, but, yes, I  
3 understand it is notarized.

4 Q. Did you make any efforts to determine the  
5 identity of this notary or whether, in fact, if that notary  
6 did?

7 A. We did speak with the notary, yes, sir. And  
8 while we went to his home and we talked to him, and he is  
9 an employee at the Lucas County Jail. Off the top of my  
10 head, I don't really recall the entire conversation other  
11 than he admitted to not -- he couldn't put a face to  
12 whoever motorized the -- or brought the letter to him.

13 Q. But it does appear that it is notary sealed, is  
14 affixed to that letter, correct?

15 A. Yes.

16 MR. CIMERMAN: Thank you. Nothing further.

17 THE COURT: Okay.

18 MR. HURLEY: Briefly, Your Honor. May I have a  
19 brief moment?

20 THE COURT: Of course.

21 REDIRECT EXAMINATION

22 BY MR. HURLEY:

23 Q. Detective Swartz, do you recall whether Duane  
24 Hill was housed at the Lucas County Jail in February of  
25 this year -- or I'm sorry, January of this year?

1       A.           I don't believe. I believe they had to bring him  
2       back for us to talk to him about the letter, but I'm not  
3       positive on that.

4               MR. HURLEY: Nothing further, Your Honor.

5               MR. CIMERMAN: Nothing further, Judge.

6               THE COURT: Detective, you may step down. You're  
7       free to go or welcome to stay. It's entirely up to you.  
8       Anything further from the government on this issue?

9               MR. HURLEY: Nothing by way of evidence Your  
10       Honor.

11              THE COURT: Mr. Cimerman, anything by way of  
12       evidence?

13              MR. CIMERMAN: If I may have a moment to consult  
14       with my client, Judge.

15              THE COURT: Of course.

16                   (Defendant and Mr. Cimerman conferring off  
17       the record.)

18              MR. CIMERMAN: Nothing further, Judge.

19              THE COURT: Okay. Mr. Hurley, on this issue?

20              MR. HURLEY: Your Honor, with respect to the  
21       notary issue, I would just point out for the -- if The  
22       Court had not already noticed this, and perhaps you did,  
23       the notary is notarizing Mr. Devault's signature, not  
24       Mr. Hill's.

25              THE COURT: I understand.



1           MR. HURLEY: They're dated on the same date back  
2 in September.

3           THE COURT: I understand.

4           MR. HURLEY: With respect to the argument, the  
5 standard is clear that the Court has to make a finding that  
6 Mr. Devault did intentionally obstruct justice. The  
7 standard is at Guideline Section 3(c)1.1. And the  
8 guideline specifically requires that The Court find the  
9 defendant wilfully obstructed or attempted to obstruct or  
10 impede administration of justice with respect to the, in  
11 this case, the prosecution of sentencing of the offense of  
12 conviction. Here, I think there is really no question that  
13 the letter is forgery. It was submitted by Mr. Devault.  
14 It was notarized by Mr. Devault. Not only is the letter  
15 false, but what's in the letter is false.

16           Mr. Devault has clearly had more to do with this  
17 offense than he has indicated to the probation officer. He  
18 is not completely innocent. He was not in the wrong place  
19 at the wrong time on that one occasion. Mr. Devault has  
20 played a continuing role in this offense, as witnessed by  
21 both the telephone contacts with the minor victim, his  
22 hotel rentals, and the use of the e-mail that only  
23 Mr. Devault is connected to.

24           And so the letter, the allegations in the letter  
25 are false, the letter itself is a forgery, and we think the

1 evidence is overwhelming with respect to that, so we ask  
2 The Court make a finding that Mr. Devault did wilfully  
3 attempt to obstruct in this case.

4 MR. CIMERMAN: Your Honor, I'm going to simply  
5 submit the government has not met a burden in showing that  
6 this letter is, in fact, a forgery and that -- it has  
7 before obstruction should not apply.

8 THE COURT: I disagree. I think evidentiary  
9 hearing, if serves in this matter, detective's testified  
10 quite persuasively that there's simply no truth to be found  
11 in this letter that he submitted. And the obstruction that  
12 he has caused by trying to delude The Court into believing  
13 that he is innocent but not culpable for the offenses  
14 charged is manifest. Proceedings have been substantially  
15 delayed as a result of this conduct, to some extent the  
16 fact that he has had a series of attorneys is, in some  
17 regard, has, in some regard, resulted from his conduct. So  
18 I think questionably the obstruction of justice enhancement  
19 is appropriate, and Mr. Hurley, that's a two-point  
20 enhancement; is that correct?

21 MR. HURLEY: That's correct, Your Honor.

22 THE COURT: So as adjusted, the base offense  
23 level is a 34, criminal history category is a five.

24 PROBATION: Excuse me, Your Honor.

25 THE COURT: I'm sorry?

1           PROBATION: The guidelines do say that if The  
2 Court finds that somebody has obstructed justice, then The  
3 Judge should make a ruling whether or not they should  
4 rightfully receive three points for acceptance.

5           MR. HURLEY: The PSR does not currently recommend  
6 a three-point.

7           PROBATION: Okay. Sorry, I just wanted to make  
8 sure that we weren't giving him acceptance and also  
9 obstruction.

10          THE COURT: No. No. No, I checked that, and  
11 that's not in the report. So it does not come on there.

12          PROBATION: Okay.

13          THE COURT: This is not a defendant who in any  
14 way whatsoever ever has accepted responsibility for his  
15 conduct.

16          PROBATION: So he would have a final offense  
17 level of 36.

18          THE COURT: Final guideline range with a base  
19 offense level -- again, let me check. I'm sorry, it's 36,  
20 base offense level 36, criminal history category four.

21          MR. HURLEY: Your Honor --

22          THE COURT: Pardon me?

23          MR. HURLEY: I'm sorry to interrupt, I believe  
24 Your Honor, but I believe it's criminal history category  
25 six.

1 PROBATION: Correct.

2 THE COURT: I'm sorry, it's actually says five on  
3 the presentence report.

4 MR. HURLEY: There's a revised --

5 PROBATION: Yeah, there was a revised presentence  
6 report.

7 THE COURT: Okay. May I see that version,  
8 Shawna?

9 PROBATION: Here's the February one. The first  
10 presentence report mislabeled it as a five, but he actually  
11 had more points, and that was all amended to and discussed  
12 at one of the previous hearings. Okay. So final guideline  
13 calculation, base offense level 36, criminal history  
14 category of six, guideline range of 324 to 405 months.  
15 Mr. Hurley, would you agree that based upon revision of the  
16 presentence report and my findings this morning, that that  
17 is correct guideline range?

18 MR. HURLEY: We do, Your Honor.

19 THE COURT: Mr. Cimerman, I assume that you  
20 object to the enhancement?

21 MR. CIMERMAN: Correct.

22 THE COURT: Also to the increase in the criminal  
23 history category?

24 MR. CIMERMAN: Correct.

25 THE COURT: Would you agree that, nonetheless, by

1     overruling those objections, the guideline range is as I've  
2     indicated it is, solely for purposes of this proceeding  
3     without waiving the right to appeal any of the findings  
4     that I've made today or otherwise?

5                 MR. CIMERMAN: Your Honor, I would offer the  
6     time, when this is appropriate, however, it's conceded  
7     within the presentence report itself that Mr. Devault's  
8     criminal history has been overstated by way of the fact  
9     that the author of the report, Ms. Sizemoore, knows that  
10    six points that went into that calculation stem from no  
11    operators license charges.

12                THE COURT: Okay. I will accept that argument.

13                MR. CIMERMAN: In fact, there are eight points  
14    that are within that report so it would be --

15                THE COURT: I'm finding that the criminal history  
16    category is a five, guideline range of 292 to 365 months.  
17    With that downward adjustment to the criminal history  
18    category, because I do think that's overstated in that  
19    regard, unfortunately it's all too common in this community  
20    of people, driving citations and blowing them off figuring  
21    they don't have to go to court is a mistake on their part.  
22    But the authorities tend to not deal with it appropriately  
23    in my view in many respects. So Mr. Hurley, assuming that  
24    I'll note your objection to the reduction, in any event,  
25    criminal history category 36 -- base offense level 36,

1 criminal history category five, guideline range of 292 to  
2 365 months.

3 MR. HURLEY: That's correct, Your Honor.

4 THE COURT: Mr. Cimerman, without waiving any  
5 objections of any kind whatsoever, would you agree that, at  
6 least for purposes of this morning's proceeding in light of  
7 my rulings where we now are, that's a correct guideline  
8 range?

9 MR. CIMERMAN: Judge, if you subtract six points  
10 from the total of 14, that would give him a total of eight  
11 points and place him in category four. It's our contention  
12 that actually there's eight traffic offenses, eight points  
13 attributable to traffic offenses. If you subtract eight  
14 from the 14 that results in six criminal history category  
15 points, and that would place him in criminal history  
16 category three.

17 THE COURT: Let me see the revised report.

18 PROBATION: I'm sorry, if I can speak to that  
19 matter.

20 THE COURT: Sure.

21 PROBATION: I did identify that there was a  
22 reasonable consideration for a downward departure because  
23 there was an excessive number of points for a driving  
24 without a license. But it would be -- I would also expect  
25 that he should get -- he should at least have four one

1 pointers for driving without a license. So Mr. Cimmerman's  
2 reduction of eight is inaccurate, at the most it should be  
3 a reduction of four, which is a category ten, which would  
4 be -- ten criminal history points, which is well within  
5 criminal history category five, and that is the basis of  
6 the recommended downward departure.

7 MR. HURLEY: For the record that would be our  
8 position as well, Your Honor, that we understand that there  
9 are issues with traffic tickets locally. On the other  
10 hand, if The Court looks closely, many times Mr. Devault  
11 did go to court. He was represented by counsel, he was  
12 given bond and then he failed to appear. This isn't simply  
13 someone didn't know or had trouble with the system.  
14 There's a pattern of behavior here over and over again.  
15 Mr. Devault is simply not taking care of the tickets, and  
16 he's not meeting his obligations with respect to bond or  
17 appearing. So we think there should be some points both  
18 because of the nature of the conduct and the fact that he  
19 continued to happen over and over again. So we think some  
20 reduction may be warranted, but we would suggest a criminal  
21 history category five is certainly adequate and they are  
22 appropriate for Mr. Devault.

23 THE COURT: That will be my finding. I believe  
24 that's a correct computation. Okay. That being said I  
25 just want on confirm where we are in his calculations.

1 Defense level 36, criminal history category five, range of  
2 292 to 365 months. On behalf of the government?

3 MR. HURLEY: Your Honor, we just want to note for  
4 the record a couple things. One, The Court's obviously  
5 aware Mr. Devault has not accepted responsibility. He has  
6 continued to obstruct, witnessed by The Court's finding  
7 this morning. He has obstructed from the start to finish  
8 of this case. The agents had trouble finding Mr. Devault  
9 when he was originally charged.

10 THE COURT: He was at large, though he knew there  
11 was a warrant outstanding for about a year-and-a-half,  
12 right?

13 MR. HURLEY: It wasn't quite that long, Your  
14 Honor, but the agent spoke to both Mr. Devault's parents  
15 and Mr. Devault himself on more than one occasion. He  
16 promised that he would come in and then he didn't. They  
17 had to go get him. They had to chase him for a bit.  
18 That's not the end of the world, but that set the tone for  
19 how Mr. Devault has handled this case from start to finish.  
20 Mr. Devault has gone through lawyers, he has obstructed  
21 justice. This is a defendant who is not taking either this  
22 offense or this court seriously.

23 Mr. Hill, in contrast, at least accepted, to some  
24 extent, what he had done. We don't suggest that  
25 Mr. Devault is any worse than Mr. Hill, but he's certainly



1 no better than Mr. Hill with respect to this offense, and  
2 Mr. Devault is a much more serious criminal history. He  
3 has prior drug convictions, he has a number of run ins with  
4 the system, and he has not yet learned his lesson to  
5 respect The Court's authority.

6 With respect to the seriousness of the offense,  
7 as The Court may recall from Mr. Hill's sentencing, this is  
8 a minor victim here. And she was extremely traumatized.  
9 This is not simply selling drugs to people who want to buy  
10 them. This was taking advantage of a young girl and  
11 selling her for sex so that Mr. Devault and Mr. Hill could  
12 get some money on her. That's an extremely serious  
13 offense. Congress says that a sentence up to life  
14 imprisonment is appropriate for that type of sentence. We  
15 defer to The Court's discretion as to how long of a  
16 sentence is appropriate, but we do want to remind The Court  
17 this is a sentence with a real victim here his who was very  
18 seriously traumatized by this.

19 THE COURT: Mr. Cimerman.

20 MR. CIMERMAN: Your Honor, if I might have a  
21 moment.

22 THE COURT: Absolutely.

23 (Mr. Cimerman and defendant conferring off  
24 the record.)

25 THE COURT: Go ahead.

1           MR. CIMERMAN: Yes, Your Honor. After consulting  
2 with Mr. Devault, it would be his request, and my request  
3 for this court that The Court consider a mandatory minimum  
4 in this case, which is a period of ten years imprisonment.  
5 I would also note that the government, as The Court can  
6 see, that Mr. Devault is basically no more, nor more -- no  
7 less involved than Duane Hill was.

8           THE COURT: Mr. Devault, you have the right to  
9 speak on your own behalf before I pronounce sentence.

10          THE DEFENDANT: I just want to say that I'm sorry  
11 and have leniency on me, please.

12          THE COURT: I couldn't hear the last part.

13          THE DEFENDANT: I just want to say that I'm sorry  
14 and please have leniency on me.

15          THE COURT: Mr. Devault, you heard the testimony  
16 of the detective. Do you dispute the accuracy of that  
17 testimony? Did you rent those motel rooms, those rooms  
18 about 20 times during 2012? Yes or no?

19          THE DEFENDANT: Yes.

20          THE COURT: And did your telephone, whether used  
21 by you or someone else, have contact with that -- that the  
22 detectives testified was listed as the name of the minor  
23 victim in this case?

24          THE DEFENDANT: It wasn't contact by me, Your  
25 Honor.

1           THE COURT: But your phone was used to contact  
2 her?

3           THE DEFENDANT: Yes.

4           THE COURT: Be honest with me young man because  
5 if you're not, the sentence is going to be within the  
6 guideline range. I want you at long last to admit that  
7 you've been lying to the United States Government, to your  
8 lawyers, to The Court and to yourself about how wrong  
9 place, wrong time, just drove somebody out, why am I facing  
10 all this time. It's up to you, young man. A substantial  
11 period of your life depends on whether you are at liberty  
12 or not, depends on whether or not you tell me the truth  
13 because you haven't. That itself is an independent crime.  
14 I want you to acknowledge or not, deny if you're still  
15 intending that you made one trip out there because Mr. Hill  
16 said he wanted to help them out by giving a ride to a  
17 couple girls, that you didn't know anything was going on,  
18 it's all a big surprise to you. Up to you. You can be  
19 truthful or not. And if I conclude that you've been  
20 truthful, then I'm going to consider something other than a  
21 guideline sentence. But if you're not, the guidelines fit  
22 and there's no doubt about that. That's what you've told  
23 the probation officer, wrong place, wrong time, one drive,  
24 just for driving somebody, I'm looking at this time, how  
25 can that be, that's not fair. I had nothing to do with any

1 of this. Government's got it all wrong. If the detective  
2 tells me that 20 times you've rented hotels room and the  
3 location was being used for prostitution and that you were  
4 directly involved in the event that took a young woman out  
5 there for that purpose. You've tried to persuade me and  
6 everybody else you encountered, oh, no, it didn't happen  
7 that way, had nothing to do with anything else. So you  
8 tell me.

9 THE DEFENDANT: Yes, I knew what I was doing that  
10 day, Your Honor. I had a very minor role in this.

11 THE COURT: What about all the other times you  
12 rented the hotel rooms?

13 THE DEFENDANT: Your Honor, honestly it was not  
14 for that -- it wasn't. I come and confess to you now, I  
15 will. This is my life, I cannot tell you, you know, I had  
16 a very minor role in this, and them other days for the  
17 hotel rooms, Your Honor, it was not, Your Honor. I would  
18 tell you. This is my life, I won't lie. And the sympathy  
19 on that date, the hotel room was not in my room on that  
20 date. It was in his, Your Honor. It was, it was not in my  
21 name that date, though, but I did know what I was doing  
22 that day, yes, I did.

23 THE COURT: And the Thirsty Boys, what about  
24 that, that's connected with this activity?

25 THE DEFENDANT: No, Your Honor. That has nothing

1 to do with that, Your Honor, by far. This is a rap  
2 entertainment group. That's all it is, Your Honor. That's  
3 all it is.

4 THE COURT: In other words, the detective was not  
5 telling me the truth when he said there was a connection?

6 THE DEFENDANT: No, Your Honor that has nothing  
7 to do with that, and Duane was not a part of that. That's  
8 a rap group, Your Honor. It's entertainment. It has  
9 nothing to do with this at all, Your Honor. Yes, I am part  
10 of it. Yes, I am. It's a rap group, Your Honor. Yes, it  
11 is. I'm part of it. It's a rap group. It has nothing to  
12 do with that at all. And by being on the e-mail with  
13 Yahoo, I do not know, Your Honor. It's a lot So Thirsty  
14 Entertainment out there, but I'm a part of one of them,  
15 yes, I am, but I don't know how it got onto that backpage,  
16 Your Honor. I would tell you now honestly. I would.

17 THE COURT: Anything further? Mr. Hill received  
18 a sentence of 200 months, correct?

19 MR. HURLEY: That's my recollection, Your Honor.

20 THE COURT: Mr. Devault, I am going to impose a  
21 sentence of 224 months. What Mr. Hill got, and I'm taking  
22 into consideration as well the fact that you have not been  
23 truthful and honest at any stage of this proceeding with  
24 regard to your involvement in this case. I find that it's  
25 far more likely than not that you were an active

1 participant in the activities that Mr. Hill was helping to  
2 orchestrate, and involved, in at least one instance,  
3 corruption of a young minor, young girl, the trafficking in  
4 other women for personal profit and gain, and therefore,  
5 I'm going to impose the sentence that I have.

6 I do not believe you when you tell me your  
7 lawyers did not go over the presentence report with you.  
8 You have regularly and consistently sought to interfere  
9 with the course of this case. I have, though it was not  
10 necessary for me to do so, granted you numerous requests  
11 for different counsel. None of those requests, in my view,  
12 was well taken. I did so, however, in an effort to have  
13 fully your right to adequate representation of this very  
14 serious case. But time after time after time you have  
15 tried, throughout the course of this prosecution, to treat  
16 it as though somehow you could blow it off, you could  
17 concoct some story, you could file a fake affidavit and  
18 somehow avoid responsibility for the crimes that you've  
19 committed.

20 I've imposed a severe sentence and I've done so  
21 for two or three reasons. One is to make clear to others  
22 like you in this community that are engaging in this kind  
23 of conduct is a very serious federal crime. You are no  
24 longer in the Municipal Court or the Common Pleas Court.  
25 When you come into federal court you can expect to be found

1 guilty and receive a severe penalty. And I think that this  
2 penalty is merited for the purpose, at the very least, of  
3 public deterrence on two scores. First, the underlying  
4 conduct in which you engage, and for which you have  
5 consistently and repeatedly refused to acknowledge your  
6 culpability and responsibility. And second, for the way in  
7 which you have treated the government and United States of  
8 of America and this United States Federal District Court.

9           The Court, a federal court, is not something to  
10 be toyed with, to be treated as though somehow you can come  
11 tell my story you want to make up, you can submit false  
12 evidence, thereby inculcating another individual, Mr. Hill,  
13 by shifting blame from yourself to him in trying most  
14 simply put, to trick the probation officer, me, the  
15 prosecutor and your own lawyer into giving you something  
16 that you do not deserve, namely a break.

17           Another reason is simple individual deterrence.  
18 It is a very long sentence. It may be longer than  
19 necessary to accomplish the goal of individual deterrence.  
20 I do not know. But throughout the course of this  
21 proceeding, you've given me very little reason to expect  
22 that it's going to take anything much less to see to it you  
23 are rehabilitated. You come to understand your  
24 responsibilities to your fellow citizens and the community  
25 and the government.

1           And finally, I think that the purpose of  
2   incapacitation, at least for a period of time, is entirely  
3   appropriate. What you did and were doing was extremely  
4   dangerous and very serious, and it will not be taken  
5   lightly by me or any other Judges of this court or any  
6   other court.

7           Therefore, to formally pronounce sentence, it's  
8   the judgment of this court, the defendant, Taurus Devault,  
9   be and hereby is committed to the custody of Bureau of  
10   Prisons to serve a term of 224 months. That will be  
11   followed by a maximum term of supervised release, which is  
12   how long?

13           PROBATION: Excuse me, there are two counts here,  
14   and maximum 60 months.

15           THE COURT: Count 2, 60 months, Count 2, 224  
16   months, those counts to be served concurrently. Thank you,  
17   Shawna.

18           PROBATION: And actually, because Count 2, the  
19   sex trafficking offense, can have a life term of supervised  
20   release.

21           THE COURT: I will impose a five year term of  
22   supervised release. Given the age which you will be  
23   released, I don't think a longer term will be necessary.  
24   There will be a registration requirement?

25           PROBATION: Yes, Your Honor. That will be a



1 condition.

2 THE COURT: While on supervised release, you will  
3 be required to comply with all standard conditions of  
4 release, which Mr. Cimerman will review with you, as will  
5 the pretrial service and probation officer upon your  
6 release. I will not impose a fine. There's no  
7 restitution. There's a special assessment of \$200 that  
8 will be taken from your prison earnings.

9 PROBATION: Your Honor, there is restitution.  
10 There is a request that we ordered, the small amount for  
11 the victim, \$240.

12 THE COURT: How much?

13 PROBATION: There's \$240.

14 THE COURT: \$240 restitution requirement.

15 PROBATION: Jointly and severally with Mr. Hill.

16 THE COURT: Jointly and severally with Duane  
17 Hill.

18 PROBATION: Thank you.

19 THE COURT: While on supervised release, you  
20 shall refrain from any unlawful use of controlled  
21 substances, submit, as directed by the probation officer,  
22 to periodic drug tests to determine whether you violated  
23 that condition. Shall not possess a firearm, destructive  
24 device or dangerous weapon. You can never again lawfully  
25 possess a firearm. If you do with your record you will be

1 prosecuted, convicted and can expect to serve at least five  
2 years in prison for violating that condition of release and  
3 that statutory prohibition. If, as directed by the  
4 probation officer, you shall participate in an approved  
5 program of substance abuse. You must register for the rest  
6 of your life under the Sex Offender Registration  
7 Notification Act, also known as the Adam Walsh Act. That  
8 is a life-long requirement.

9           Upon release from confinement you shall obey the  
10 instructions of the probation officer and thereafter the  
11 law with regard to that requirement under the Minor  
12 Protection and Restriction Program. You will abide by all  
13 rules of the Minor Protection and Restriction Program of  
14 the United States Pretrial Service and Probation Office as  
15 may then be in effect. You shall, at the direction of your  
16 probation officer, submit to mental health evaluation and  
17 accept whatever mental health, whatever drug treatment  
18 programs are made available to you.

19           While on supervised release, you shall consent to  
20 United States pretrial -- pretrial and probation officers  
21 conducting a periodic unannounced examination of any  
22 computer system which may be in your possession and use or  
23 control, that can include copy of any and all memory,  
24 hardware, software and/or removal of such systems for the  
25 purpose of conducting a more thorough inspection.

1           You should submit your person, residence, place  
2   of business, computer and/or vehicle to a warrantless  
3   search conducted and controlled by the United States  
4   pretrial service and probation officer in a reasonable time  
5   and reasonable manner based on reasonable suspicion that  
6   you are in possession of contraband or evidence of  
7   violation of condition of release or the law. Failure to  
8   submit to such search will be grounds for revocation. You  
9   shall informed any other residents of the premises that  
10   your computer may be subject to such a search pursuant to  
11   that condition.

12           You should also understand that I neglected to  
13   mention that you're absolutely prohibited from engaging in  
14   any violation of local, state or federal law. You shall  
15   cooperate in the collection of DNA as directed by the  
16   probation officer. You will receive credit for time  
17   served. I will recommend that you be placed in the  
18   institution as near Toledo, Ohio as possible, however,  
19   given your criminal history category, the nature of this  
20   offense, the likelihood that you will be nearby is quite  
21   slight, but I will make that recommendation in any event.

22           You have a right -- there was no plea agreement,  
23   was there?

24           MR. HURLEY: No, Your Honor.

25           THE COURT: You have the right to appeal. Talk

1 to Mr. Cimerman. If you think that grounds for appeal  
2 exist, have him file a notice of appeal on your behalf  
3 within 14 days; is that correct, within 14 days? Or you  
4 lose forever whatever right you may have to challenge your  
5 conviction or your sentence by way of direct appeal, post  
6 conviction relief or habeas corpus. Do you understand  
7 that? Mr. Devault, do you understand your right to appeal?

8 THE DEFENDANT: (Nonverbal response).

9 THE COURT: You have to answer yes or no.

10 THE DEFENDANT: Yes.

11 THE COURT: Do you understand that you have to  
12 file a notice of appeal within 14 days?

13 THE DEFENDANT: Yes.

14 THE COURT: And you understand that if you ask  
15 Mr. Cimerman to file that notice for you, he will do so?

16 THE DEFENDANT: Yes.

17 THE COURT: And is it your desire to appeal?

18 THE DEFENDANT: Yes.

19 THE COURT: Okay. Fine. But you still have to  
20 file a written notice, okay. If you want Mr. Cimerman to  
21 continue to represent you for purposes of appeal, that's  
22 fine. If not, either I or the Court of Appeals can appoint  
23 new counsel for you. Do you understand that?

24 THE DEFENDANT: Yes.

25 THE COURT: I believe that I have indicated

1 Section 3553(a) factors that I find applicable in this  
2 case. This is an extremely serious offense. It's the  
3 kinds of offense that unfortunately has afflicted our  
4 community now for several years. Though it's -- law  
5 enforcement efforts have received a great deal of  
6 publicity, nonetheless that appears insufficient and caused  
7 Mr. Devault and others to refrain from engaging in the kind  
8 of conduct that brings him here today, namely the  
9 corruption of young women and turning them into prostitutes  
10 for their own personal profit and gain.

11 I hope that this sentence serves its most  
12 fundamental purpose, and that is to make it clear to the  
13 public and this community, and perhaps elsewhere, that this  
14 kind of conduct will not be tolerated, particularly when  
15 its participants refuse to acknowledge their own  
16 culpability, and as well when they undertake to deceive The  
17 Court and the government by the submission of false  
18 evidence. Had you not done that, your sentence might have  
19 been less, but you took that path, for whatever reason you  
20 thought would serve your interest because you didn't get  
21 it. You didn't understand that this is not the Toledo  
22 Municipal Court where you walk out the door and go about  
23 your business as though nothing has happened. This is not  
24 the Common Pleas Court that deals with more serious  
25 offenses and offenders. You come into federal court and

1 you are in a different world. Our sentences are vastly  
2 more severe upon conviction than most of the sentences  
3 people receive in Common Pleas. That is the way the United  
4 States government and the congress of the United States and  
5 the sentencing commission and the U.S. Attorney's Office  
6 and indeed Judges of this court view the appropriate  
7 sanctions for conduct of the kind that you engaged in. And  
8 I sincerely hope that this comes to public attention so  
9 that perhaps other young men in your situation who may be  
10 tempted to do what you did, say oh, no, I don't. You do  
11 not want to go to federal prison, and the chances of  
12 getting caught are ever increasing. Law enforcement  
13 continues to employ increasing sophisticated methods to  
14 detect conduct of this sort and to apprehend its  
15 perpetrators, for the young women in our community in a  
16 small way are safer from predators like yourself, Mr. Hill,  
17 and your customers.

18 I also think that the sentence is necessary as  
19 I've indicated for personal deterrence. I think it's  
20 necessary to serve the interest of the public and the  
21 community for the reasons I've expressed.

22 Does any part have any objection to any part of  
23 these proceedings not previously made, either proceedings  
24 prior to today or today.

25 MR. HURLEY: No, thank you, Your Honor, on behalf

1 of the government.

2 THE COURT: Mr. Cimerman?

3 MR. CIMERMAN: No, Your Honor.

4 THE COURT: That will conclude this proceeding.

5 Thank you. I should indicate also I'm sorry before we  
6 adjourn, I realize this is a very substantial variance, and  
7 I also acknowledge the fact that the government may  
8 disagree with the sentence, and may itself appeal.

9 Mr. Cimerman, is there anything further you want me to say  
10 with regard to why I varied? I do think a sentence within  
11 the guideline range under all the circumstances would have  
12 been more severe than necessary, longer than necessary to  
13 accomplish the purposes of sentencing under Section  
14 3553(a). Is there anything further you want me to say in  
15 that regard for purposes of appeal?

16 MR. CIMERMAN: No.

17 THE COURT: The government also has its right to  
18 appeal, and it may well. Okay. That will conclude this  
19 proceeding. Thank you.

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C E R T I F I C A T E

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1                   I certify that the foregoing is a correct transcript  
2   from the record of proceedings in the above-entitled matter.

3

4   s:/Angela D. Nixon

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6   Angela D. Nixon, RMR, CRR

Date

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